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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,811	09/23/2000	Wyatt Price Hargett JR.	1700.80A	2650
21176	7590	02/27/2004	EXAMINER	
SUMMA & ALLAN, P.A. 11610 NORTH COMMUNITY HOUSE ROAD SUITE 200 CHARLOTTE, NC 28277			MEREK, JOSEPH C	
		ART UNIT	PAPER NUMBER	
		3727	18	
DATE MAILED: 02/27/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/668,811	HARGETT ET AL.
	Examiner	Art Unit
	Joseph C. Merek	3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 23-26, 28-30 and 32 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 23-26, 28-30, and 32 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 23-26, and 28-30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,287,526. Although the conflicting claims are not identical, they are not patentably distinct from each other because the plug or choke portion of the cap of the patent is not claimed as cylindrical. It would have been obvious to make it cylindrical to allow for insertion to the cylindrical housing or shell of the vessel.

Claim 32 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,287,526 in view of 6,136,276. Regarding claim 32, 6,287,526 does not teach the frame flexing for venting. 6,136,276 teaches the frame flexing for the venting. It would have been obvious to employ this structure in the frame of '526 to prevent the container from rupturing.

Claims 23-26, 28-30 and 32 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,287,526 in view of Bennett (US 5,427,741). Regarding claims 23, 24 and 28-30, 6,287,526 does not teach specific wound layers. Bennett, as seen in Fig. 4, teaches the wound layers. The reinforcement 31 around the inner liner has three wound layers separated by plastic layers. It would have been obvious this structure in the vessel of '526 to provide for a stronger vessel.

Claim Objections

Claims 28-30 are objected to because of the following informalities: they depend from a canceled claim. They have been treated as depending from claim 23. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-26 and 28, 30, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lautenschlager in view of Bennett (US 5,427,741). Regarding claims 19 and 23, Lautenschlager does not teach the outer layer of the vessel 23 having a

wound layer. Bennett as seen in Fig. 1 and 4, teaches a similar structure where the outer reinforcement 31 has at least one wound layer. It would have been obvious to employ the wound layer of Bennett in the outer layer of Lautenschlager to make the outer layer stronger or to provide for a stronger vessel as taught by Bennett. The modified reinforcement of Lautenschlager has inner and outer layers of Teflon as seen in Fig. 9 of Bennett. Regarding claim 24, the choke cylinder of Lautenschlager has an outer diameter that is substantially the same as the vessel. There is no structure lacking in the combination of references to perform the self-sealing function. Regarding claim 25, see Fig. 2 of Lautenschlager where the bolt and the threaded opening are shown. Regarding claim 26, see page 7 of Lautenschlager where the cap and the vessel are made of Teflon. Regarding claim 28, see Fig. 4 of Bennett where the pairs of layers are shown that are in the modified sleeve of Lautenschlager. There are polymer layers on the outside of the wound layers and there is a polymer layer between adjacent wound layers. The filaments are textiles as defined by applicant on page 6 of the instant invention. Regarding claim 30, the textile layers are filaments or yarns. The limitation yarn does not require any structure that is not in the combination of references. Regarding claim 32, see Fig. 2 of Lautenschlager where 32 is considered part of the frame that allows for pressure release and in combination with 30a supports the vessel and the cap in a closed position.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lautenschlager in view of Bennett as applied to claim 28 above, and further in view of Broerman (US 3,426,940). Regarding claim 29, the modified vessel of Lautenschlager

does not teach the fabric layers. Broerman teaches using a fabric to reinforce a pressure vessel. It would have been obvious to employ the fabric of Broerman in the vessel the Lautenschlager to provide for an alternative reinforcing material.

Claims 23-26, 28, 30, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lautenschlager in view of Bennett (US 5,427,741) and further in view of Boeteers. Regarding claim 23, to the degree that the cap must have the inner walls to provide the self-sealing feature, then the vessel of Lautenschlager as modified by Bennett does not teach this structure. Boeteers teaches a choke cylinder with the inner walls. It would have been obvious to employ the inner walls of Boeteers in the plug cap of Lautenschlager to provide a better seal or an alternative closure design. Regarding claim 24, the choke cylinder of Lautenschlager has an outer diameter that is substantially the same as the vessel. There is no structure lacking in the combination of references to perform the self-sealing function. Regarding claim 25, see Fig. 2 of Lautenschlager where the bolt and the threaded opening are shown. Regarding claim 26, see page 7 of Lautenschlager where the cap and the vessel are made of Teflon. Regarding claim 28, see Fig. 4 of Bennett where the pairs of layers are shown that are in the modified sleeve of Lautenschlager. There are polymer layers on the outside of the wound layers and there is a polymer layer between adjacent wound layers. The filaments are textiles as defined by applicant on page 6 of the instant invention. Regarding claim 30, the textile layers are filaments or yarns. The limitation yarn does not require any structure that is not in the combination of references. Regarding claim 32, see Fig. 2 of Lautenschlager where 32 is considered part of the frame that allows for

pressure release and in combination with 30a supports the vessel and the cap in a closed position.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lautenschlager in view of Bennett and Boeteers as applied to claim 28 above, and further in view of Broerman (US 3,426,940). Regarding claim 29, the modified vessel of Lautenschlager does not teach the fabric layers. Broerman teaches using a fabric to reinforce a pressure vessel. It would have been obvious to employ the fabric of Broerman in the vessel the Lautenschlager to provide for an alternative reinforcing material.

Response to Arguments

Applicant has not presented any arguments with respect to the above rejections in this amendment or in the previous held non-responsive amendment. The rejections are considered to be acquiesced by applicant.

Conclusion

The previous office action should have included claim 31 in the in the rejection of Lautenschlager in view of Bennett '741. The claimed structure is shown in Fig. 9 of Bennett. This omission was inadvertent.

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

JCM
February 24, 2004


Lee Young
2/26/04
LEE YOUNG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700